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AMY J HUNLEY
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF COCHISE

| | | |
|-------------------------|---|---------------------------|
| In re: the Marriage of: |) | Case No. DO200901390 |
| |) | |
| ROGER CONTRERAS, |) | MOTION FOR TRANSCRIPTS |
| |) | |
| Petitioner, |) | |
| |) | (A.R.S. §12-302(C)(1)(b)) |
| and |) | |
| |) | Hon. Michael Peterson |
| NANCY BOURKE, |) | Division VII |
| |) | |
| Respondent. |) | |

Respondent, NANCY BOURKE, hereby requests the Court provide cost-free transcripts to her for proceedings had in this matter on and after the date Hon. Michael Peterson accepted this case assignment in October or November, 2018.

On October 17, 2018, this Court (specifically, Hon. Geoffrey Ferlan) complied with its statutory requirement to defer the cost of transcripts for Respondent¹. Two partial transcripts were ordered by Respondent after the order was issued. Both transcripts pertained to hearings conducted by Hon. Geoffrey Ferlan, the same judicial officer who deferred costs. At least one of the transcripts was thoroughly reviewed during Petitioner's trial testimony on August 9,

¹ Respondent attached a copy of her approval letter for nutrition assistance, making the deferral mandatory. A.R.S. §12-302(C)(1)(b). ("... the court shall grant an application for **deferral** of court fees and costs if the applicant establishes by affidavit, including supporting documentation, that the applicant . . . [i]s receiving benefits pursuant to . . . [t]he food stamp program (7 United States Code sections 2011 through 2029)." Emphasis in original.

1 2019. The transcript proved necessary to dispel Petitioner's false claims that he is not obligated
2 to financially support his child, as ordered. The Court found the transcript so important that it
3 promised to review the entirety of the May 14, 2018 proceeding that was the subject of the
4 transcript. MINUTE ENTRY: COURT TRIAL, Day 3 *at* p.3 ("Respondent's Exhibit J from
5 the February 1st hearing is now Respondent's Exhibit L. This exhibit is subject to listening by
6 the Court.").

7
8 On January 16, 2019, this Court struck Respondent's December 17, 2018 Motion for
9 Conformed Copies of All Filed Documents and Simultaneous Communication Between Parties
10 and All Others Who May Affect the Minor Child, Either Parent, or Anything Legally Falling
11 Under Above Case Number. As a result, Respondent no longer receives case documents by
12 mail, as required, and is excluded from communications between, for example, the GAL and
13 Petitioner, leaving Respondent even less able than Petitioner to access basic information about
14 this case.
15

16
17 The next day, on January 17, 2019, Respondent again requested a court reporter at all
18 future hearings. Respondent's reasoning, in part, was:

19 With the extreme number of procedural irregularities in this matter, attendance
20 of a court reporter is necessary for the efficient prosecution of special action and
21 appellate matters. It is also necessary to remind each new judge what the last
22 judge ordered, a matter that is difficult for the indigent Respondent to do quickly
23 without court reporters in attendance at hearings.

24 Respondent's Request for Court Reporter at all Future Hearings, *at* p. 1.

25 Terri Jo Neff also noted her need to seek relief from the Arizona Court of Appeals and
26 her need to access the transcript, "as it's the official record of the proceeding." 8/19/19 Motion
to Unseal Transcript and Motion for Court to Pay for Transcript, *at* 2.

1 Even when a court reporter does attend a proceeding, his or her presence is rendered
2 meaningless without access to transcripts.

3 Furthermore, this Court contradicts itself frequently, even when the original orders and
4 subsequent, conflicting orders and verbal comments all issue from Hon. Michael Peterson. It is
5 nearly impossible for Respondent to work at the trial or the appellate level without access to
6 transcripts. For example, during the recent trial, Petitioner was able to argue that this Court
7 issued disclosure orders only with regard to Respondent's financial information. The Court cut
8 off Respondent's oral response during court, and the clearly parallel nature of the disclosure
9 orders were not contained in the MEO; only the transcript would have shown that the Court
10 made the same disclosure orders for both parties. The Court should have remembered that it
11 ordered the same disclosure for each party, but since it did not, Petitioner was able to continue
12 neglecting his child financially. Petitioner does so to this day, more than twenty months after
13 his child support order became effective. This absurd level of purposeful neglect could have
14 easily been prevented had the Court allowed Respondent the same access to the record that
15 Petitioner enjoys by virtue of his wealth.
16

17
18 On January 23, 2019, Respondent moved for an order allowing her access to transcripts,
19 soon after being informed that this Court overturned her October 17, 2019 deferral Order
20 without notice or an opportunity to be heard.

21 In open court on February 1, 2019:

22 Ms. Bourke presented further argument in response regarding the Court's
23 overturning her deferral order and requested a hearing on the issue.
24 The Court informed Ms. Bourke that she can refile a new request deferral, and the
25 Court will consider it, but the request is **denied** because it is not properly before
26 the Court today.

2/1/19 Minute Entry - Evidentiary Hearing, at p.4.

1 Thereafter, Respondent submitted another application for deferral, showing even worse
2 financial circumstances than the deferral application that was granted in October. On March
3 28, 2019, this Court issued a written Order stating, in part: **“IT IS ORDERED DENYING** the
4 deferral of fees pertaining to transcription fees”. This Court’s parsing out of transcripts from
5 the deferral order is illegal. *See* FN1, *supra*. *See also*, A.R.S. §12-302(H)(7) (“the county
6 shall pay [Court reporter's fees for the preparation of court transcripts] on the granting of an
7 application for deferral”).

8 The Court then issued several more conflicting oral and written orders over the next
9 several months.

10 When there are inconsistencies between the written judgment and the oral
11 pronouncement of the Court, the oral orders control. *State v. Johnson*, 108 Ariz. 116
12 (Ariz.,1972). Transcripts would have allowed Respondent to remember each detail of the
13 hearings held thereafter. Most recently, the Court refused to reduce the temporary orders issued
14 at the end of trial to writing, though the orders were issued without notice or an opportunity to
15 be heard. Those orders severely restricted Respondent’s parenting time, but remain unclear as
16 to the details of the restrictions.

17 This Court constantly derogates Respondent in Court as she tries to keep up with the
18 ever-changing orders and complex demands made of (only) her, frequently and openly calling
19 her a liar as it passes upon the fate of her child. This, in turn, creates severe anxiety for
20 Respondent, making the task of memorizing the constantly evolving orders even more difficult.
21 Respondent is not the only person who believes this Court is proceeding in an illegal fashion in
22 the course of issuing oral and written orders that are completely incompatible. For example,
23 Ms. Neff, who was granted an expedited hearing currently set for September 18, 2019, stated:

24
25 Neff wishes to purse a Special Action to the Arizona Court of Appeals seeking
26 relief from the Court’s overly broad and unconstitutionally crafted order. Neff

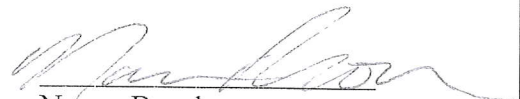
1 also contends there are significant difference between Judge Peterson's verbal
2 comments from the bench compared to the orders he subsequently signed."

3 August 19, 2019 Motion to Unseal Transcript and Motion for Court to Pay for
4 Transcript, *at* p. 2.

5 Neff's Motion also noted, *at* pp. 2-3, that "the need for this transcript results directly
6 from the Court's own actions . . . the Court -- not Neff -- should bear any cost due RevoText for
7 the transcript." The need for Respondent's transcripts are also directly due to the Court's
8 illegal actions and the Court should also bear the costs for Respondent's transcripts.

9 WHEREFORE, Respondent respectfully requests the Court allow Respondent access to
10 transcripts of the proceedings that occurred after Hon. Michael Peterson began presiding over
11 this matter. Respondent further requests the cost of transcripts be borne by the Court, rather
12 than Respondent.

13 RESPECTFULLY SUBMITTED this 10th day of September, 2019.

14
15 
16 Nancy Bourke
17 Respondent

18 Original/copy of the foregoing delivered this 10th day of September, 2019 to:

19 Cochise County Clerk of the Superior Court

20 Danette R. Pahl, Esq. / via USPS e-mail to drpahl@att.net

21 Joan Sacramento, Esq. / via e-mail to sacramento.msw.jd@gmail.com

22 Division VII via e-mail to jspencer@courts.az.gov
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